

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIAN J. ALEXANDER,

Plaintiff,

v.

MUNGUIA, et al.,

Defendants.

No. 2:21-cv-01390-KJM-CKD

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 7, 2023, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. On October 6, 2023, plaintiff filed a document styled as a motion for stay, by which he requested additional time to file objections. On October 13, 2023, the court granted the request for additional time and gave plaintiff an additional forty-five days in which to file objections.<sup>1</sup> ECF No. 62. The October 13, 2023 minute order was served on plaintiff's address of record and returned by the postal service

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<sup>1</sup> The court also vacated the final order and judgment entered October 10, 2023, "at/near the same time" plaintiff's request for extension of time was filed. ECF No. 62.

1 with the notation that delivery had been refused. Neither party has filed objections to the findings  
2 and recommendations.

3 The court presumes that any findings of fact are correct. *See Orand v. United States*,  
4 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed  
5 de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law  
6 by the magistrate judge are reviewed de novo by both the district court and [the appellate] court  
7 . . ."). Having reviewed the file, the court finds the findings and recommendations to be  
8 supported by the record and by the proper analysis.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations filed September 7, 2023, are adopted in full.
- 11 2. Defendants' motion for summary judgment (ECF No. 46) is granted.
- 12 3. Defendants Britton and Rodriguez are dismissed from this action without prejudice.
- 13 4. Defendant Munguia is dismissed from this action with prejudice.
- 14 5. Plaintiff's partial motion for summary judgment (ECF No. 39) is denied.
- 15 6. The Clerk of Court enter judgment as indicated above and close this case.

16 DATED: March 27, 2024.

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20 CHIEF UNITED STATES DISTRICT JUDGE  
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